

ENVIRONMENTAL IMPACT STATEMENTS FOR MAJOR STATE ACTIONS

LSA Document #08-209

Overview

This rule amends 329 IAC 5 to implement Indiana law regarding environmental impact statements for major state actions that significantly affect the quality of the human environment.

Citations Affected

329 IAC 5-1-1; 329 IAC 5-1-2; 329 IAC 5-1-3; 329 IAC 5-1-4; 329 IAC 5-1-5; 329 IAC 5-2; 329 IAC 5-3

Authority

IC 13-12-4-5; IC 13-14-8

Affected Persons

State agencies that undertake major state actions that significantly affect the quality of the human environment.

Reason(s) for the Rule

This rule responds to a perceived need to clarify the requirements for state agencies that must comply with IC 13-12-4-5.

Economic Impact of the Rule

This rule does not impose any new requirements or restrictions on state agencies. There is no potential fiscal impact associated with this rule.

Benefits of the Rule

This rule is designed to streamline the environmental assessment process and clarify which major state agency actions will significantly affect the quality of the human environment.

Description of the Rulemaking Project

This rule will define the actions that constitute a major state action significantly affecting the quality of the human environment and provide tools that a responsible official can use to comply with IC 13-12-4-5.

Scheduled Hearings

First Public Hearing: March 17, 2009.

Second Public Hearing: July 21, 2009.

Consideration of Factors in IC 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

1) All existing physical conditions and the character of the area affected.

2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.

3) Zoning classifications.

4) The nature of the existing air quality or existing water quality, as appropriate.

5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.

6) Economic reasonableness of measuring or reducing any particular type of pollution.

7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

(A) human, plant, animal, or aquatic life; or

(B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq., and the regulations of the Council on Environmental Quality at 40 CFR 1500-1508.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This notice includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments from the first comment period and the department's responses to the comments, a notice of first public hearing, and the draft rule. The Solid Waste Management Board holds the first public hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second public hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public hearing is held and public comments are again heard. Once final adoption occurs, the rule must be approved by the Indiana Attorney General and the Governor. If approved, the rule becomes effective 30 days after filing with the *Indiana Register*.